

EXHIBIT B

From: Carey Miller <carey.miller@robbinsfirm.com>
Sent: Tuesday, December 5, 2023 12:10 PM
To: Fisher, Ramsey W.; Cross, David D.
Cc: Bruce Brown; Josh Belinfante; Bryan Tyson; Vincent Russo; Robert McGuire; Alexander Denton; Bryan Jacoutot; cichter@ichterdavis.com; cino@khlawfirm.com; hknapp@khlawfirm.com; Javier Pico-Prats; rabney@wattsguerra.com; sparks@khlawfirm.com; Christian Andreu-von Euw; Kaiser, Mary; Conaway, Jenna B.; Ed Bedard; Marilyn Marks (Marilyn@USCGG.org)
Subject: RE: Curling - Meet/Confer Re Motions in Limini

Ramsey-

We'll be proceeding with a motion in limine on items below, notated where I believe we reached agreement. Notwithstanding the agreement, however, we feel we will need to address agreed upon items in a shortened form since the MILs are being filed prior to entry of the pretrial order. Those that I believe we had some agreement or at least in narrowed form are in blue below. I don't expect those portions to exceed a paragraph:

1. Plaintiffs' designation and apparent intent to offer Fifth Amendment invocations of non-party witnesses; relevance and effect thereof; adverse inference issue from Summary Judgment
2. [Plaintiffs' designation of SOS 30b6 depositions and scope thereof](#) – I understood on the call that plaintiffs did not intend to wholesale offer all designated 30b6 testimony, if that is the case then there may not be an issue. We will state this understanding and further state that to the extent that is incorrect, we are seeking an order that will preclude plaintiffs from calling for live testimony from such witnesses in their case as a matter of cumulative evidence and trial control.
3. [Plaintiffs' designation of their own retained expert witness testimony](#) - Similar to the above but perhaps shorter. Have not deeply reviewed the witness list you provided, but we will oppose designation of testimony from Plaintiffs' own expert witnesses rather than calling them live. Understand you don't intend to do that but given the designations are attached to the PTO, will need to raise.
4. Slight change here – we understood from our call that Plaintiffs intend to challenge the Dominion BMD System's compliance with state law. We don't believe that is part of the case and will move to exclude evidence concerning this, and the adoption of HB 316 more generally.
5. The scope of Dr. Stark's opinions
6. Regarding the relevance of claims dismissed as moot
7. Exclusion of Dr. Halderman testimony relying upon undisclosed methods, data, and/or exhibits
8. **New issue** – while you have removed Gov. Kemp as a may call witness, you have named the Secretary as a "will call" witness. We will oppose his being called as a witness under the apex doctrine

Defendants reserve all rights to amend or supplement these topics in our motion in limine.

On the MITRE report, I apologize as I thought someone else had already sent this to you. We reserve our ability to seek to introduce the MITRE report at trial and presently anticipate doing so, though with the caveat that our trial strategy is of course not final. Since you mentioned that you might want to file a motion in limine about the MITRE report if we plan to admit it, we wanted to let you know that we do anticipate its use at trial so that you can prepare your motion in limine if that is what you want to do.

Carey A. Miller

T: 404 856 3286 | E: cmiller@robbinsfirm.com

From: Fisher, Ramsey W. <RamseyFisher@mofo.com>

Sent: Monday, December 4, 2023 6:34 PM

To: Carey Miller <carey.miller@robbinsfirm.com>; Cross, David D. <DCross@mofo.com>

Cc: Bruce Brown <bbrown@brucepbrownlaw.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Bryan Tyson <btyson@taylorenglish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; Bryan Jacoutot <bjacoutot@taylorenglish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>; Ed Bedard <Ed.Bedard@robbinsfirm.com>; Marilyn Marks (Marilyn@USCGG.org) <Marilyn@uscgg.org>

Subject: RE: Curling - Meet/Confer Re Motions in Limini

Carey,

We write to follow up on our meet and confer regarding motions *in limine*. First, can you please confirm which of the issues identified in your November 27 email the State intends to substantively brief in its motion? Plaintiffs need clarity on which issues the State intends to brief for the Court. Second, you indicated that you would confirm by Friday whether the State intends to offer evidence pertaining to the MITRE report in its case. Can you please confirm? We need to know whether or not to prepare a motion in limine on that issue.

Please get back to us on both of these issues by noon ET tomorrow.

Thanks,
Ramsey

From: Carey Miller <carey.miller@robbinsfirm.com>

Sent: Wednesday, November 29, 2023 8:29 AM

To: Cross, David D. <DCross@mofo.com>

Cc: Bruce Brown <bbrown@brucepbrownlaw.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Bryan Tyson <btyson@taylorenglish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; Bryan Jacoutot <bjacoutot@taylorenglish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>; Ed Bedard <Ed.Bedard@robbinsfirm.com>; Marilyn Marks (Marilyn@USCGG.org) <Marilyn@uscgg.org>

Subject: RE: Curling - Meet/Confer Re Motions in Limini

External Email

David – on your questions see below. Can discuss at 3. Thanks

Carey A. Miller

T: 404 856 3286 | E: cmiller@robbinsfirm.com

From: Cross, David D. <DCross@mofo.com>

Sent: Tuesday, November 28, 2023 9:24 PM

To: Carey Miller <carey.miller@robbinsfirm.com>

Cc: Bruce Brown <bbrown@brucepbrownlaw.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>; Ed Bedard <Ed.Bedard@robbinsfirm.com>; Marilyn Marks (Marilyn@USCGG.org) <Marilyn@uscgg.org>

Subject: RE: Curling - Meet/Confer Re Motions in Limini

That works for me. Others on the plaintiff side? 3pm would be ideal for me.

From: Carey Miller <carey.miller@robbinsfirm.com>

Date: Tuesday, Nov 28, 2023 at 9:09 PM

To: Cross, David D. <DCross@mofo.com>

Cc: Bruce Brown <bbrown@brucepbrownlaw.com>, Fisher, Ramsey W. <RamseyFisher@mofo.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Bryan Tyson <btyson@taylorenghish.com>, Vincent Russo <vrusso@robbinsfirm.com>, Robert McGuire <ram@lawram.com>, Alexander Denton <Alexander.Denton@robbinsfirm.com>, Bryan Jacoutot <bjacoutot@taylorenghish.com>, cichter@ichterdavis.com <cichter@ichterdavis.com>, cino@khlawfirm.com <cino@khlawfirm.com>, hknapp@khlawfirm.com <hknapp@khlawfirm.com>, Javier Pico-Prats <javier.picoprats@robbinsfirm.com>, rabney@wattsguerra.com <rabney@wattsguerra.com>, sparks@khlawfirm.com <sparks@khlawfirm.com>, Christian Andreu-von Euw <christian@blgrp.com>, Kaiser, Mary <MKaiser@mofo.com>, Conaway, Jenna B. <JConaway@mofo.com>, Ed Bedard <Ed.Bedard@robbinsfirm.com>, Marilyn Marks (Marilyn@USCGG.org) <Marilyn@uscgg.org>

Subject: Re: Curling - Meet/Confer Re Motions in Limini

David- we are available tomorrow afternoon 3pm until 6. Have been on the road this afternoon. Will respond to your questions in morning. At least as to 3 I think that does resolve the issue.

Thanks

Sent from my iPhone

On Nov 28, 2023, at 9:03 PM, Cross, David D. <DCross@mofo.com> wrote:

Carey - We need your availability for tomorrow please and answers to mine and Bruce's questions below beforehand.

Thanks.

DC

From: Cross, David D. <DCross@mofo.com>

Date: Monday, Nov 27, 2023 at 11:07 PM

To: Bruce Brown <bbrown@brucebrownlaw.com>, Carey Miller <carey.miller@robbinsfirm.com>, Fisher, Ramsey W. <RamseyFisher@mofo.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Bryan Tyson <btyson@taylorenghish.com>, Vincent Russo <vrusso@robbinsfirm.com>, Robert McGuire <ram@lawram.com>, Alexander Denton <Alexander.Denton@robbinsfirm.com>, Bryan Jacoutot <bjacoutot@taylorenghish.com>, cichter@ichterdavis.com <cichter@ichterdavis.com>, cino@khlawfirm.com <cino@khlawfirm.com>, hknapp@khlawfirm.com <hknapp@khlawfirm.com>, Javier Pico-Prats <javier.picoprats@robbinsfirm.com>, rabney@wattsguerra.com <rabney@wattsguerra.com>, sparks@khlawfirm.com <sparks@khlawfirm.com>, Christian Andreu-von Euw <christian@blgrp.com>, Kaiser, Mary <MKaiser@mofo.com>, Conaway, Jenna B. <JConaway@mofo.com>, Ed Bedard <Ed.Bedard@robbinsfirm.com>, Marilyn Marks (Marilyn@USCGG.org) <Marilyn@USCGG.org>

Subject: RE: Curling - Meet/Confer Re Motions in Limini

I echo Bruce's concern in his second paragraph.

From: Bruce Brown <bbrown@brucebrownlaw.com>

Date: Monday, Nov 27, 2023 at 10:57 PM

To: Cross, David D. <DCross@mofo.com>, Carey Miller <carey.miller@robbinsfirm.com>, Fisher, Ramsey W. <RamseyFisher@mofo.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Bryan Tyson <btyson@taylorenghish.com>, Vincent Russo <vrusso@robbinsfirm.com>, Robert McGuire <ram@lawram.com>, Alexander Denton <Alexander.Denton@robbinsfirm.com>, Bryan Jacoutot <bjacoutot@taylorenghish.com>, cichter@ichterdavis.com <cichter@ichterdavis.com>, cino@khlawfirm.com <cino@khlawfirm.com>, hknapp@khlawfirm.com <hknapp@khlawfirm.com>, Javier Pico-Prats <javier.picoprats@robbinsfirm.com>, rabney@wattsguerra.com <rabney@wattsguerra.com>, sparks@khlawfirm.com <sparks@khlawfirm.com>, Christian Andreu-von Euw <christian@blgrp.com>, Kaiser, Mary <MKaiser@mofo.com>, Conaway, Jenna B. <JConaway@mofo.com>, Ed Bedard <Ed.Bedard@robbinsfirm.com>, Marilyn Marks (Marilyn@USCGG.org) <Marilyn@USCGG.org>

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External Email

Counsel -

For CGG, Wednesday would work generally. I agree with David's comments and, re. item 3, CGG has the same plans for its experts. As for item 5 re. Stark, yes, he will testify about audits, and audits in Georgia. At this point I do not need, want, or am able to be more specific.

For all of these issues, CGG's first and maybe last question at our conferral will be why any of these topics must be resolved in limine rather than, in context, at trial. Many of these issues may never even arise and, for those that do, with a bench trial it is very difficult to see how addressing them in advance will be necessary or beneficial.

Thanks,

Bruce

From: Cross, David D. <DCross@mofo.com>

Sent: Monday, November 27, 2023 9:52 PM

To: Carey Miller <carey.miller@robbinsfirm.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; Bruce Brown <bbrown@brucepbrownlaw.com>; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com <cichter@ichterdavis.com>; cino@khlawfirm.com <cino@khlawfirm.com>; hknapp@khlawfirm.com <hknapp@khlawfirm.com>; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com <rabney@wattsguerra.com>; sparks@khlawfirm.com <sparks@khlawfirm.com>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>; Ed Bedard <Ed.Bedard@robbinsfirm.com>

Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

Thanks Carey. What's your side's availability on Wednesday? Also, could you add a bit more clarity on a few of the topics below so we understand the issue and your concern before we speak? See comments embedded in your list.

Thanks.

From: Carey Miller <carey.miller@robbinsfirm.com>

Date: Monday, Nov 27, 2023 at 9:32 PM

To: Cross, David D. <DCross@mofo.com>, Fisher, Ramsey W. <RamseyFisher@mofo.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Bryan Tyson <btyson@taylorenghish.com>, Vincent Russo <vrusso@robbinsfirm.com>, Robert McGuire <ram@lawram.com>, Alexander Denton <Alexander.Denton@robbinsfirm.com>, bbrown@brucepbrownlaw.com <bbrown@brucepbrownlaw.com>, Bryan Jacoutot <bjacoutot@taylorenghish.com>, cichter@ichterdavis.com <cichter@ichterdavis.com>, cino@khlawfirm.com <cino@khlawfirm.com>, hknapp@khlawfirm.com <hknapp@khlawfirm.com>, Javier Pico-Prats <javier.picoprats@robbinsfirm.com>, rabney@wattsguerra.com <rabney@wattsguerra.com>, sparks@khlawfirm.com <sparks@khlawfirm.com>, Christian Andreu-von Euw <christian@blgrp.com>, Kaiser, Mary <MKaiser@mofo.com>, Conaway, Jenna B. <JConaway@mofo.com>, Ed Bedard <Ed.Bedard@robbinsfirm.com>

Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

External Email

David –

The below are issues that we have identified for motions in limine. Please let us know when you are able to confer, we are all backed up tomorrow on this and other matters but can make another day this week work. I suggest we also confer on the proposed pretrial order and portions to include; it may be that certain of these could be adequately addressed by our proposal for limited pretrial briefing, certain others I think we could agree on:

1. Plaintiffs' designation and apparent intent to offer Fifth Amendment invocations of non-party witnesses; relevance and effect thereof; adverse inference issue from Summary Judgment
2. Plaintiffs' designation of SOS 30b6 depositions and scope thereof. [DDC: can you please elaborate on this? Rule 32 makes clear that we can offer any SOS 30b6 testimony at trial. What specifically do you have in mind for this motion on this topic?](#)
 - While Rule 32 permits introduction, the Court retains broad discretion to control both the mode and order of trial and to eliminate cumulative evidence. FRE 611, 403. Right now, you have designated hundreds of pages of deposition testimony for this purpose. If that is how the Plaintiffs intend to present their case, that is fine and we will object to plaintiffs calling these witnesses in their case given the volume of their testimony that we understand you will seek to admit. Separately, there is also testimony interspersed throughout that does not seem to us to be 30b6 testimony but rather personal knowledge testimony. Personal knowledge questions and testimony are of course fair game in a deposition, but they are beyond the scope of the 30b6 designation.
3. Plaintiffs' designation of testimony from their own retained experts; status as trial witnesses. [DDC: if the concern is that we would offer deposition testimony in lieu of live testimony from our own retained experts, I can say for the Curling plaintiffs that's not something we intend to do. Because witnesses can unforeseeably and uncontrollably become unavailable for trial, we often err on the side of including designations even for witnesses that we expect to call live to fully protect and preserve our rights should such a witness become unavailable. Does this address your concern?](#)
 - I think this resolves the issue. If you do not intend to call any expert witnesses, please let me know. I believe this may only be applicable to Appel (others are will call but he is may call), though I am not sure off top of my head.
4. Plaintiffs' designation of items regarding the selection process of BMD system/passage of HB 316. [DDC: can you please elaborate on this? What specific items are you referring to?](#)
 - Perhaps not eloquently stated, but we do not believe the determination to enact HB 316 and

its requirement for the use of BMDs to be relevant, nor the decision process for selecting a vendor. Rather, the fact that the BMD System is implemented and required to be used on election day is the baseline relevant fact. You have listed documents like SAFE Commission minutes/transcripts/reports. Perhaps there is relevance for those documents some other purpose, but to the extent it is offered to open questions on the public bid or the legislation we don't see the relevance. Same goes for your identification of Gov. Kemp on your witness list though even more attenuated; not sure what the thought process on that is, but we presume it is concerning this topic

5. The scope of Dr. Stark's opinions regarding the implementation of audits in Georgia
6. Regarding the relevance of matters pertaining to claims dismissed as moot.
DDC: does this concern the DRE claims? If so, can you please explain how/why the Court's SJ decision doesn't resolve this issue insofar as she already found that DRE-related evidence is relevant at this stage at least for the purposes she discussed in her decision?
 - Relevance of material to be admitted into evidence at trial was not before the Court at summary judgment. To the extent there is some remaining thread of relevance as to DREs or the Poll Pads for that matter, the Summary Judgment order does not provide sufficient clarity on how that is the case or what the scope of that relevance is. Whether this is done as a motion in limine or for clarification/modification/reconsideration of such portions of the order, we reserve all rights but raised it in good faith here since we saw it as interrelated.
7. Incorporating by reference the Halderman issue filed today, but do not intend new argument. DDC: not sure what this means. Today's filing was for a discovery dispute. If you intend to move to exclude any aspect of Dr. Halderman's testimony, we'll need to understand what exactly that is and why, and that will need to be included in any motion in limine. No such motion is pending before the court, and the evidentiary arguments would be different in part (at least for us) from those concerning only discovery.
 - Our position is reflected in our portion of the Halderman filing. We do not intend additional argument, but rather a single sentence incorporating our position in that statement by reference. However, we will provide additional argument on this front if that is what you are asking for. Nonetheless, as we stated in the context of conferral, we will need resolution from the court on this.

Defendants reserve all rights to amend or supplement these topics with reasonable notice prior to entry of the pretrial order.

Carey A. Miller

T: 404 856 3286 | E: cmiller@robbinsfirm.com

From: Cross, David D. <DCross@mofo.com>
Sent: Monday, November 27, 2023 7:36 PM
To: Fisher, Ramsey W. <RamseyFisher@mofo.com>; Carey Miller <carey.miller@robbinsfirm.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>
Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

Carey, Bryan, Vincent -

Are you still sending today your list of topics/issues for the motions in limine you anticipate filing? We need that list today please as agreed last week.

Thanks.
DC

From: Cross, David D. <DCross@mofo.com>
Date: Monday, Nov 27, 2023 at 2:01 PM
To: Fisher, Ramsey W. <RamseyFisher@mofo.com>, Carey Miller <carey.miller@robbinsfirm.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Bryan Tyson <btyson@taylorenghish.com>, Vincent Russo <vrusso@robbinsfirm.com>, Robert McGuire <ram@lawram.com>, Alexander Denton <Alexander.Denton@robbinsfirm.com>, bbrown@brucepbrownlaw.com <bbrown@brucepbrownlaw.com>, Bryan Jacoutot <bjacoutot@taylorenghish.com>, cichter@ichterdavis.com <cichter@ichterdavis.com>, cino@khlawfirm.com <cino@khlawfirm.com>, hknapp@khlawfirm.com <hknapp@khlawfirm.com>, Javier Pico-Prats <javier.picoprats@robbinsfirm.com>, rabney@wattsguerra.com <rabney@wattsguerra.com>, sparks@khlawfirm.com <sparks@khlawfirm.com>, Marilyn Marks <Marilyn@USCGG.org>, Christian Andreu-von Euw <christian@blgrp.com>, Kaiser, Mary <MKaiser@mofo.com>, Conaway, Jenna B. <JConaway@mofo.com>
Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

Sorry Carey. Looks like our margins somehow ended up slightly off. Probably my fault because I'm the least capable with word processing. I'm probably dating myself just by referring to it as word processing.

From: Fisher, Ramsey W. <RamseyFisher@mofo.com>
Date: Monday, Nov 27, 2023 at 1:58 PM
To: Carey Miller <carey.miller@robbinsfirm.com>, Cross, David D. <DCross@mofo.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Bryan Tyson <btyson@taylorenghish.com>, Vincent Russo <vrusso@robbinsfirm.com>, Robert McGuire <ram@lawram.com>, Alexander Denton <Alexander.Denton@robbinsfirm.com>, bbrown@brucepbrownlaw.com <bbrown@brucepbrownlaw.com>, Bryan Jacoutot <bjacoutot@taylorenghish.com>, cichter@ichterdavis.com <cichter@ichterdavis.com>, cino@khlawfirm.com <cino@khlawfirm.com>, hknapp@khlawfirm.com <hknapp@khlawfirm.com>, Javier Pico-Prats <javier.picoprats@robbinsfirm.com>, rabney@wattsguerra.com <rabney@wattsguerra.com>, sparks@khlawfirm.com <sparks@khlawfirm.com>, Marilyn Marks <Marilyn@USCGG.org>, Christian Andreu-von Euw <christian@blgrp.com>, Kaiser, Mary <MKaiser@mofo.com>, Conaway, Jenna B. <JConaway@mofo.com>
Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

Carey – try this version. Attaching a redline as well so you can see what we changed. Thank you, and apologies.

From: Carey Miller <carey.miller@robbinsfirm.com>
Sent: Monday, November 27, 2023 10:44 AM
To: Fisher, Ramsey W. <RamseyFisher@mofo.com>; Cross, David D. <DCross@mofo.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>
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External Email

Ramsey – I can't seem to get your portion to fit within the allotted seven pages. Looks like the margins are set differently which is probably causing the issue (screenshot below). Note that LR 5.1(D) requires all margins be at least one inch and filing counsel must certify to compliance. Let me know when you have adjusted to fit the seven-page limit. Right now all of the final footnote and a few lines of the end are onto page 15

<image001.png>

Carey A. Miller

T: 404 856 3286 | E: cmiller@robbinsfirm.com

From: Fisher, Ramsey W. <RamseyFisher@mofo.com>

Sent: Monday, November 27, 2023 1:30 PM

To: Carey Miller <carey.miller@robbinsfirm.com>; Cross, David D. <DCross@mofo.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>

Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

Hi Carey,

Please find our portion of the discovery statement and the corresponding exhibits attached. We've included a signature block.

Thank you,
Ramsey

From: Carey Miller <carey.miller@robbinsfirm.com>

Sent: Monday, November 27, 2023 10:26 AM

To: Cross, David D. <DCross@mofo.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>

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External Email

Defendants' Portion is attached along with referenced exhibits. When Plaintiffs send theirs, please include a signature block. One is in there now but it's likely out of date.

Carey A. Miller

T: 404 856 3286 | E: cmiller@robbinsfirm.com

From: Cross, David D. <DCross@mofo.com>
Sent: Monday, November 27, 2023 10:20 AM
To: Carey Miller <carey.miller@robbinsfirm.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>
Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

Hi Carey -

We'll be prepared to exchange our respective portions at 1:30 PM today. I just wanted to confirm that neither of us is going to make any edits/changes to our respective portions after the exchange and that the hour that's allotted before the 2:30 PM filing deadline is only to compile the two portions into a single joint filing and get it filed. If you have a different understanding, please let us know.

Thanks.
DC

From: Cross, David D. <DCross@mofo.com>
Date: Wednesday, Nov 22, 2023 at 10:34 AM
To: Carey Miller <carey.miller@robbinsfirm.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Fisher, Ramsey W. <RamseyFisher@mofo.com>, Bryan Tyson <btyson@taylorenghish.com>, Vincent Russo <vrusso@robbinsfirm.com>, Robert McGuire <ram@lawram.com>, Alexander Denton <Alexander.Denton@robbinsfirm.com>, bbrown@brucepbrownlaw.com <bbrown@brucepbrownlaw.com>, Bryan Jacoutot <bjacoutot@taylorenghish.com>, cichter@ichterdavis.com <cichter@ichterdavis.com>, cino@khlawfirm.com <cino@khlawfirm.com>, hknapp@khlawfirm.com <hknapp@khlawfirm.com>, Javier Pico-Prats <javier.picoprats@robbinsfirm.com>, rabney@wattsguerra.com <rabney@wattsguerra.com>, sparks@khlawfirm.com <sparks@khlawfirm.com>, Marilyn Marks <Marilyn@USCGG.org>, Christian Andreu-von Euw <christian@blgrp.com>, Kaiser, Mary <MKaiser@mofo.com>, Conaway, Jenna B. <JConaway@mofo.com>
Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

Oh. Good catch. That works. Thanks, Carey.

David D. Cross

Chair of Antitrust Litigation practice

Partner | Morrison & Foerster LLP

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From: Carey Miller <carey.miller@robbinsfirm.com>

Sent: Wednesday, November 22, 2023 10:34 AM

To: Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Cross, David D. <DCross@mofo.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>

Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

External Email

One point of clarification – the filing is due by 2:30 on Monday. Suggest we exchange by maybe 1:30 to ensure timely filing.

Carey A. Miller

T: 404 856 3286 | E: cmiller@robbinsfirm.com

From: Josh Belinfante <Josh.Belinfante@robbinsfirm.com>

Sent: Wednesday, November 22, 2023 10:33 AM

To: Cross, David D. <DCross@mofo.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; Carey Miller <carey.miller@robbinsfirm.com>; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>

Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

I think that's fine.

Thanks again and Happy Thanksgiving.

JB

Josh Belinfante

T: 404 856 3262 | E: jbelinfante@robbinsfirm.com

From: Cross, David D. <DCross@mofo.com>
Sent: Wednesday, November 22, 2023 10:31 AM
To: Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Robert McGuire <ram@lawram.com>; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; Carey Miller <carey.miller@robbinsfirm.com>; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>
Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

Understood. I assume we'll exchange our respective portions simultaneously on Monday for filing. Should we say 5 pm ET? And I assume you'll handle the filing since it's your motion – does that work?

David D. Cross**Chair of Antitrust Litigation practice**

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From: Josh Belinfante <Josh.Belinfante@robbinsfirm.com>
Sent: Wednesday, November 22, 2023 10:25 AM
To: Cross, David D. <DCross@mofo.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Middleton, Caroline <CMiddleton@mofo.com>; Robert McGuire <ram@lawram.com>; Kaye.Burwell@fultoncountyga.gov; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; Carey Miller <carey.miller@robbinsfirm.com>; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>
Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

External Email

David:

Thank you for getting back to us. We appreciate your efforts to reach as solution, as we trust you do our efforts to work in good faith to resolve this issue.

As things sit, we believe we must preserve and maintain our objection to Dr. Halderman's use of information that has not been disclosed to us. As we have previously pointed out, the issue was teed up for the Court; we proposed a security protocol that (we still believe) went unanswered, and we indicated on a transcribed conference before the Court that we did not need the malware for summary judgment but would should the case proceed to trial. We understand you disagree, but we believe this issue must now be resolved by the Court.

Best regards,
JB

Josh Belinfante

T: 404 856 3262 | E: jbelinfante@robbinsfirm.com

From: Cross, David D. <DCross@mofo.com>

Sent: Wednesday, November 22, 2023 12:32 AM

To: Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Middleton, Caroline <CMiddleton@mofo.com>; Robert McGuire <ram@lawram.com>; Kaye.Burwell@fultoncountyga.gov; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; Carey Miller <carey.miller@robbinsfirm.com>; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>

Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

Hi Josh –

Thanks for sending this over. Sorry for not responding sooner. The team and I have been tied up on pretrial submissions here and a bunch of briefs due in another case tomorrow.

If we understand your proposal right below, I don't think we can agree to it. We can't agree to limit any video demonstration of Dr. Halderman's work and findings to what we showed in the 2020 PI hearing. That predates the 100-page report he prepared and we produced in July 2021 reflecting significant additional work and findings. As we explained on Monday, we believe we have a right to present any of his analyses and findings reflected in any of his reports, declarations, testimony, or other discovery disclosures at trial, including with the aid of one or more video demonstratives.

Additionally, as we've also explained before, we're not comfortable producing his programming code given the extraordinary risk that code poses to elections were it to end up in the wrong hands. While we could have devised a protocol to inspect that when the Court provided Defendants an opportunity to do so during discovery in 2022 (and originally in 2021), the time, burden, and expense to do that now isn't feasible with trial only about seven weeks away.

We genuinely don't understand why Defendants didn't pursue this at any point since last raising the issue in the spring of 2021. The explanation provided to the Court was that we included the Fulton equipment on our exhibit list. Our commitment to remove that from the list obviates that reason and therefore should moot this issue. We continue to believe that's a very fair compromise here. We believe the case law decidedly supports our objection to the timeliness of this discovery request, and so we think it's highly unlikely the Court will grant the request at this very late date due to the lack of diligence over the last 20 months or so. And it's very prejudicial to us to have to rely on video clips for our demonstrations rather than doing it live with the equipment as we did in 2018. Nonetheless, we've offered to forgo bringing the equipment into the courtroom as a compromise to specifically resolve the reason you gave for the request so as to avoid the Judge and the parties dealing with briefing on a discovery dispute at this very busy time, especially during the holidays this week.

We hope you'll reconsider your position and accept our compromise. Please let us know by noon ET tomorrow / Wednesday so we know if we need to prepare our portion of a joint filing for Monday.

Happy Thanksgiving to you and your colleagues.

DC

David D. Cross

Chair of Antitrust Litigation practice

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From: Josh Belinfante <Josh.Belinfante@robbinsfirm.com>

Sent: Tuesday, November 21, 2023 10:08 AM

To: Fisher, Ramsey W. <RamseyFisher@mofo.com>; Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Cross, David D. <DCross@mofo.com>; Middleton, Caroline <CMiddleton@mofo.com>; Robert McGuire <ram@lawram.com>; Kaye.Burwell@fultoncountyga.gov; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; Carey Miller <carey.miller@robbinsfirm.com>; hknapp@khlawfirm.com; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>

Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

External Email

Curling Plaintiffs' Counsel:

When we discussed yesterday, we understood that to resolve the dispute, Plaintiffs would agree that they would not be performing any sort of "hack" demonstration at trial with the Dominion BMD equipment but that they would again utilize the same video submissions from the September 2020 PI Hearing. We believe this agreement will largely resolve this dispute, with the only caveat being that of the 2020 PI Hearing demonstration. In which case, we will need (a) the election files utilized for such demonstration, (b) disclosure of the make, model, and settings of the printer utilized, and (c) the programming code on the "small computer" Dr. Halderman utilized to perform his "relay attack."

At bottom, our intent here is that we will need disclosed to us the underlying technical data which will form the basis of Dr. Halderman's anticipated testimony as required by Rule 26, specifically with respect to any demonstration you intend to offer at trial applying such technical data to a component of the elections system.

We reserve all rights to object at trial, but your agreement can obviate the need for a motion in limine.

Hopefully this resolves the issue.

Let us know and thanks,
JB

Josh Belinfante

T: 404 856 3262 | E: jbelinfante@robbinsfirm.com

From: Fisher, Ramsey W. <RamseyFisher@mofo.com>

Sent: Monday, November 20, 2023 12:54 PM

To: Bryan Tyson <btyson@taylorenghish.com>; Vincent Russo <vrusso@robbinsfirm.com>; Cross, David D. <DCross@mofo.com>; Middleton, Caroline <CMiddleton@mofo.com>; Robert McGuire <ram@lawram.com>; Kaye.Burwell@fultoncountygga.gov; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; Carey Miller <carey.miller@robbinsfirm.com>; hknapp@khlawfirm.com; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>

Subject: RE: Curling - Meet/Confer regarding Halderman Data/Code

Hi Bryan,

In addition to the dispute concerning Dr. Halderman's work, we would also like to discuss the following on today's call.

1. Exchange of public proposed exhibits.
2. State's list of proposed motions in limine.
3. Proposed items to include in the joint pretrial order.
4. Witness lists.
5. Trial subpoenas

Thanks,
Ramsey

From: Bryan Tyson <btyson@taylorenghish.com>
Sent: Monday, November 20, 2023 4:23 AM
To: Vincent Russo <vrusso@robbinsfirm.com>; Cross, David D. <DCross@mofo.com>; Middleton, Caroline <CMiddleton@mofo.com>; Robert McGuire <ram@lawram.com>; Bryan Tyson <btyson@taylorenghish.com>; Kaye.Burwell@fultoncountyga.gov; Alexander Denton <Alexander.Denton@robbinsfirm.com>; bbrown@brucepbrownlaw.com; Bryan Jacoutot <bjacoutot@taylorenghish.com>; cichter@ichterdavis.com; cino@khlawfirm.com; Carey Miller <carey.miller@robbinsfirm.com>; hknapp@khlawfirm.com; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Javier Pico-Prats <javier.picoprats@robbinsfirm.com>; rabney@wattsguerra.com; sparks@khlawfirm.com; Marilyn Marks <Marilyn@USCGG.org>; Christian Andreu-von Euw <christian@blgrp.com>; Kaiser, Mary <MKaiser@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>
Subject: Curling - Meet/Confer regarding Halderman Data/Code


External Email

Counsel:

Pursuant to Judge Totenberg's order, please identify a time to meet and confer today regarding the "various data, computer programs, code, and other items discussed by Dr. Halderman in his Report." We'll work around everyone's schedule.

Thanks,

Bryan

 **Bryan P. Tyson**
Taylor English Duma LLP | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339
P: 678.336.7249 | M: 404.219.3160 | btyson@taylorenghish.com
Website | LinkedIn | Twitter

Ask Me About Our TED Tenet of the Week: Check Your Ego at the Door.

Click [here](#) to learn more about our TED Tenets.

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